

**STANDING CHAPTER 13 TRUSTEE OSMARIE NAVARRO MARTINEZ
REPORT OF ACTION TAKEN
MEETING OF CREDITORS**

In re:

ANA MARIA FERRERAS

Case No. 24-04866-ESL

Chapter 13

Attorney Name: ROBERTO FIGUEROA CARRASQUILLO*

I. Appearances Debtor <input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent Joint Debtor <input type="checkbox"/> Present <input type="checkbox"/> Absent Attorney for Debtor <input checked="" type="checkbox"/> Present <input type="checkbox"/> Absent <input type="checkbox"/> [] Prose <input type="checkbox"/> [] Substitute	Date & Time: 12/18/2024 9:22:00AM <input checked="" type="checkbox"/> R <input type="checkbox"/> NR LV: 0.00 ACP: 5 Unsecured Pool: To be determined <input checked="" type="checkbox"/> This is debtor(s) 1 Bankruptcy filing. Creditors: <div style="border: 1px solid black; height: 100px; margin-top: 10px; padding: 5px;"><u>Department of Treasury by Ms. I. Romero</u></div>
II. Oath Administered <div style="text-align: center;"><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</div>	
III. Plan Date: 11/11/2024 Base: \$23,394.00 Payments 1 made out of 1 due. Confirmation Hearing Date: 1/22/2025 8:30:00AM Evidence of Pmt shown:	
Attorney's fees as per R. 2016(b) \$4,000.00 - \$217.00 = \$3,783.00	
IV. Status of Meeting <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Not Held <input type="checkbox"/> Held/Continued <input type="checkbox"/> Held/Not Closed <input type="checkbox"/> Continued Continued Date: Comments:	
 <input type="checkbox"/> [] M.T.D. to be filed by Trustee: Debtor(s) failed to: <input type="checkbox"/> [] Appear: <input type="checkbox"/> [] Commence payments <input type="checkbox"/> [] Keep payments current <input type="checkbox"/> [] does (do) not qualify as a debtor (§109): <input type="checkbox"/> [] MTD Already filed, see Docket:5 <input checked="" type="checkbox"/> [X] Other: 5	

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(Cont.)

Trustee's Report on Confirmation

☐ FAVORABLE

☒ UNFAVORABLE

☐ Feasibility

☐ Insufficiently funded

☐ Unfair discrimination

☐ Fails disposable income

☐ Fails liquidation value test

☐ Insuarence quote

☐ No provision for secured creditor(s)

☐ Treat value of collateral separately

☐ No provision for insurance

☐ Tax returns missing

☐ State - years

☐ Federal - years

Pending/Items/ Documents:

☐ Assumption/Rejection executory contract

☐ Appraisal

☐ DSO Recipient's Information

☐ Evidence of being current with DSO

☐ Evidence of income

☐ Business Documents

☐ Monthly reports for the months

☐ Public Liability Insurance

☐ Premises

☐ Vehicle(s):

☐ Licenses issued by:

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COMMENTS

ACP: 5 Household size: 2 Disp. Income under 1325(b)(2): -138.05

Plan: \$200.00 x 13; \$82.00 x 7; \$453.00 x 40 = \$23,394.00 Gen. Uns. Disbursement: 13.861% Attorney's fees: (Flat fee, \$4,000.00 - \$217.00 = \$,783.00)

1. ISSUE(S) WITH DISPOSABLE INCOME TEST, §1325(b)(1)(B):

a. Form 122C-2 line #19 disclose a Court-ordered payments in the amount of \$609.15, which was related to a garnishment from Treasury; however, the garnishment ceased as soon as the case was filed. Considering In re Kramer, 2014 WL 818942 (1st Cir. B.A.P. 2014), it is certain that debtor will not have such expense. Thus, the amount of \$609.15 must be added to the disposable income disclosed in line 45 of SCMI form 122C-2.

b. Moreover, in the instant case, the expenses listed by the above captioned debtor do not fall within the category of "special circumstances" since the expenses disclosed at line 43 of the form 122C-2 of the Means Test are not unforeseeable or beyond the debtor's control, nor are they unanticipated, truly unavoidable, beyond the reasonable control of the debtor, and out of the ordinary. Trustee's objection will have an impact at line 45 of 122C2 as described below

Namely, Trustee objects disclosure of deduction special circumstances in Form 122C-2 described as follows \$450.00 (Dependent's College monthly rent expense); and \$585.20 (Dependent's college tuition monthly payment); for a total of 1,035.20. This will have an impact in the result at line 45 that currently reads -138.05 as explained below.

Additionally, debtor has not provided -

(a) documentation of such expenses or adjustment to income; and

(b) a detailed explanation of the special circumstances that make such expenses or adjustment to income necessary and reasonable.

As discussed at the meeting, since debtor's son will graduate in December 2025, trustee may allow the expenses for 13 months; however, we need to receive evidence of the expenses and determine the unsecured pool. For the latter, we need to consider that college expenses will be only for a certain period of time and that there is no garnishment.

Considering the changes of circumstances (garnishment), we have a preliminary unsecured pool of \$28,266 (-138.05+\$609.16 = \$471.10).

Furthermore, without the college expenses (line 43) the unsecured pool is 53,829. Deducting the college expenses in the amount of \$1035.20 for 13 months (\$13,457.60), the unsecured pool decreases to \$40,371.40. Considering the

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amount of \$28,266 plus 40,371.40 the total unsecured pool in this case is \$68,637.40..

c. Debtor needs to amend plan to increase payments in higher proportion after the termination of the college related expenses. Also, to devote 50% of any bonus received from employer. Usually paid in March and October.

3. Debtor will amend SOFA to include collection of monies and garnishment file by Oriental Bank.

s/Osmarie Navarro

Date: 12/18/2024

Trustee/Presiding Officer

(Rev. 02/11)